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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,264	12/28/2001	Kimitaka Murashita	826.1779	2737
21171	7590	05/25/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			ROGERS, SCOTT A	
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/028,264

Applicant(s)

MURASHITA, KIMITAKA

Examiner

Scott A. Rogers

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 8-27 and 31-35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-7, 29, 30 and 36-39 is/are allowed.
- 6) ☒ Claim(s) 1 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, filed 10 November 2004, regarding the rejection under 35 USC 112 in the Office Action mailed 15 July 2004, have been fully considered and are persuasive. That rejection of claims 2, 3, and 30 has been withdrawn.

Applicant's arguments filed 10 November 2004, regarding the rejection under 35 USC 102 in the Office Action mailed 15 July 2004, have been fully considered but they are not persuasive. Applicant argues that the present invention is directed to very different subject matter because it is directed to testing a display. Specifically, applicant points out that in Sasanuma et al, a test pattern is printed on a piece of paper which is scanned after a predetermined period of time expires, whereas the present invention is "displaying a specific color patch on a display" and "measuring a color of the color patch displayed on the display" after a predetermined period of time expires. However, this difference is not expressed in the claims. The claims do not differentiate over the prior art and therefore read on the prior art. First, in Sasanuma, a gradation test pattern including all color patterns is output. And second, in Sasanuma, the test pattern is output by being printed on a sheet of paper, whereby the test pattern is being displayed on the sheet of paper (i.e., the sheet of paper is the display).

Applicant should consider amending the claims to specify the type of display either generally (e.g., an electronic display) or specifically (e.g., a CRT or PDP). In that event, the Examiner would reconsider the claims, the applied prior art, and the field of search.

The prior rejection under 35 USC 102 is maintained.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Sasanuma et al (US 5859933).

Referring to claim 1:

Sasanuma et al disclose a display measuring method for measuring a display characteristic of a display (e.g., printer 100 in Sasanuma et al), comprising:

displaying a specific color patch on the display (col. 7, lines 21-32);

counting a time that elapses after the color patch is displayed (col. 7, lines 33-36); and

measuring a color of the color patch displayed on the display (col. 7, lines 37-46), wherein the color patch is measured when the time that elapses after the color patch display reaches a specific pre determined time.

Referring to claim 28:

This claim is the device claim corresponding to method claim 1 and is rejected for the same reasons given above.

***Allowable Subject Matter***

Claims 2-7, 29, 30, and 36-39 are allowed for the reasons previously indicated and as noted by Applicant in the response.

***Election/Restrictions***

This application contains claims 8-27 and 31-35, drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A Rogers whose telephone number is 571-272-7467. The examiner can normally be reached on Monday & Wednesday 6:00am-6:00pm and Tuesday & Thursday 6:00am-2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached at 571-272-7471.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service at 571-272-2600. Official correspondence by facsimile should be sent to 703-872-9306. The USPTO contact Center phone numbers are 800-PTO-9199.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

19 May 2005

  
SCOTT ROGERS  
PRIMARY EXAMINER